



OFFICE OF THE
COMMONWEALTH'S ATTORNEY
City of Charlottesville

JOSEPH D. PLATANIA
COMMONWEALTH'S
ATTORNEY

P.O. Box 911 • CHARLOTTESVILLE, VIRGINIA 22902
TEL (434) 970-3176 • FAX (434) 971-8202

PAT O'DONNELL
VICTIM WITNESS
COORDINATOR

May 12, 2023

On February 28, 2023, in the City of Charlottesville, several members of the Albemarle County Police Department (ACPD) used deadly force that resulted in the death of Billy James Sites. Albemarle County officers were assisting Charlottesville officers who were attempting to serve Mr. Sites with three outstanding criminal warrants, one charging the felony of communicating a threat to kill or do bodily injury to another and the other two charging violations of a protective order. The purpose of this report is to summarize the investigation of this incident conducted by the Virginia State Police that I, along with Charlottesville Police Chief Michael Kochis, requested. The following report will lay out a factual summary of the investigation, state the relevant and applicable legal standards and how they apply in this particular case, and then conclude with an assessment of whether the use of deadly force by Albemarle County Officers was reasonable and therefore justified.

The Investigation

As an initial matter, it is important to note that although the use of lethal force involved Albemarle County officers, the incident occurred in the City of Charlottesville thereby making the Charlottesville Commonwealth Attorney's Office responsible for supervising the ensuing investigation and the preparation of this report. Led by Special Agent A. Justin Wouters, the Virginia State Police's Bureau of Criminal Investigation (BCI) conducted a thorough and comprehensive review of this officer involved shooting. Special Agent Wouters reviewed footage from 15 body worn cameras and dash camera video from 2 police vehicles; conducted a thorough canvassing of the area to locate and interview citizen witnesses on both the day of and day after the incident; interviewed 34 witnesses; obtained drone footage of the incident; examined 57 items of collected physical evidence; reviewed Emergency Communication Center (ECC) radio traffic and CAD histories of the entire event for both the CPD and the ACPD; reviewed ACPD training records for each involved department member; reviewed the ACPD use of force policy; reviewed various documentary evidence including the three outstanding arrest warrants for Billy James Sites; collected and reviewed various items of ballistics and firearms evidence; generated laser scene diagrams; consulted with the office of the Chief Medical Examiner and reviewed their findings; and supplemented his case file with approximately 398 scene photographs.

Through the investigation it was revealed that six Albemarle County officers discharged their firearms. In addition to the above described evidence that was collected and reviewed, all six officers who discharged their firearms freely and voluntarily submitted statements to Special Agent Wouters and made themselves available for any and all follow up questioning. The six involved Albemarle County officers were fully and totally cooperative throughout.

The investigation revealed that on February 27, 2023 ACPD Officer C.H. Megahan spoke to Christina Martinez who stated that she was the girlfriend of Billy James Sites. She alleged that Sites violated a no contact protective order already in place by making threats of death and bodily injury to her via text messages. Based on the statements of Martinez and Officer Megahan's observation of said text messages, he obtained a felony warrant for a violation of Virginia Code §18.2-60 (Communicate in writing a threat to kill or do bodily injury) and two misdemeanor warrants for a violation of Virginia Code §16.1-253.2 (Violation of a Protective Order). Officer Megahan attempted to locate Sites that evening but was unsuccessful. Officer Megahan ascertained that Sites was driving a Ford F-150 pickup truck which was spray painted black.

Christina Martinez was interviewed during the course of this investigation and stated that after the warrants were obtained she met up with Sites and rented him a hotel room at the Red Roof Inn in the City of Charlottesville. She acknowledged that she knew that she was breaking the law by helping him avoid being served with the criminal warrants. Martinez stated that Sites was upset about his father's recent cancer diagnosis and was acting very manic. He stated to her that he wasn't going back to jail and "would rather be carried by six than tried by twelve." She left that evening and returned to the hotel the next morning, February 28, 2023, sometime before 9:00 A.M.

At approximately 9:00 A.M. on the 28th of February, ACPD Detective J. Weethee was traveling to work when he spotted a black spray-painted Ford F-150 truck parked at the Red Roof Inn located at 2011 Holiday Drive in the City of Charlottesville. Detective Weethee was familiar with the warrants which had been obtained by Officer Megahan the previous evening as well as the description of Sites' vehicle. Detective Weethee contacted his direct supervisor and advised him of the situation. At that time, members of the Albemarle County Police Department attempted to identify what room, if any, might have been associated with Sites with the intention of contacting the Charlottesville Police Department (CPD) to have them attempt to take Sites into custody.

At approximately 9:30 A.M. Detective Weethee learned that a Christina Martinez had rented a room for two adults and that they were set to check out at 11:00 A.M. He immediately contacted CPD for assistance. CPD Detectives Arreguin, Bowlin, Raines, Stein, and Wagner arrived on scene at the Red Roof Inn at approximately 10:03 AM and pulled up to the black spray-painted Ford F-150 with their blue emergency lights activated.

Upon exiting their vehicles, CPD Detectives observed a female wearing a red hoodie with a white male who they were immediately able to identify as Sites. The CPD Detectives

were all displaying their badges of authority and wearing their department issued outer carriers which identified them as police officers. CPD Detectives drew their firearms and commanded Sites to show them his hands. Sites repeatedly ignored this command, despite it being given numerous times. Instead of complying, Sites began backing away from Martinez and his vehicle. It was at that time that Detectives noticed that Sites had a black pistol in his right hand.

CPD Detectives immediately took cover and gave Sites repeated commands to drop his weapon. He ignored those commands and fled through the parking lot towards a walking path along the 250 Bypass. Detective Arreguin radioed out a description of Sites and described the direction in which Sites had fled. Dispatch responded on air that "all units should be aware Billy Sites made threats to law enforcement the other night and also threatened suicide by a cop yesterday." As Sites fled police and passed the occupied Abbott Building (2000 Holiday Drive), Detectives observed him raise his gun and fire off one round into the air. This was also captured on body worn camera.

The pursuing Detectives took cover behind several trees on the Abbott Building property. They continued to try and communicate with Sites in an attempt to de-escalate the situation, but he ignored them. Sites continued east past the Abbott Building and down a pathway leading behind the Dominion Power Building. Sites then scaled a small hill covered by trees, effectively hiding him from view. While in this position, Sites fired a second round into the air.

Over the course of the next 40 minutes, Detective Arreguin attempted to negotiate with Sites. He asked him 27 times to put his firearm down, but Sites would not comply. Detective Arreguin asked "what can we do to resolve this," "what can we do to help out," "we can get through this together, nobody wants to get hurt," "there's too many innocent people out here," "nobody wants to hurt you, we want to get you help," and "we want this to end peacefully." All of this was captured on body worn cameras that the officers had activated. At some point during their conversation, Sites claimed to have a second gun. Because Mr. Sites had twice discharged his firearm and because of the perceived threat to the public, a shelter in place order was issued for the surrounding area.

At approximately 10:45 A.M., knowing that Sites was still armed and had discharged his weapon twice in a heavily populated area, a decision was made to activate CPD's Crisis Negotiations Team (CNT). Specially trained Sergeants G.E. Wade and T. McNerny responded to the area and took over communication with Sites via cellphone. Sites communicated to the officers that he wanted water, wanted to get to his vehicle to get high before going to jail, and wanted to give the keys to his truck to his father. Wade told Sites that they were working on getting him water, that he would not be allowed to get high before being arrested, and that he could have contact with his father as soon as he dropped his firearm.

Sites refused to drop his firearm and was adamant that police meet his three demands. He continued "y'all just going to have to shoot me, fuck it . . . I'm going to start firing off

myself, either you let him (his father) come down, or I'm just going to start firing off at y'all ... I'm going to take this little bald headed motherfucker and I'm gonna peel his scalp back." (Detective Arreguin, who had previously been interacting with Sites, has a shaved head). Wade told Sites there was no need for any of that to happen, at which point Sites stated "I don't give a fuck, do what I say or I'm gonna do what I said." Wade again advised that they could work on getting his father to see him, but he would need to drop his pistol before that could happen. Sites stated he was not going to drop the pistol. He then stated that he was thirsty and wanted water. Wade advised that they were working on bringing him water but that he needed to drop the pistol. Sites became agitated, yelling, cussing, and again refusing to drop his pistol. Before hanging up on Wade, Sites made statements about shooting the officers on scene and ending it all.

Wade immediately called Sites back who stated that he would only speak to his father. He advised that if he couldn't speak with his father he was going to start shooting. An Albemarle County patrol officer that knew Sites from previous interactions asked permission from the Command post to approach Sites with a water bottle in an attempt to calm him down. Permission was given and the patrol officer calmly approached Sites explaining that he just wanted to get him some water. The water bottle was thrown to Sites from approximately 20 yards away. After having the water delivered, Wade called Sites back and told him that his father Cecil was present and that he could speak with him if he dropped his firearm. Sites again refused and remained agitated. (Cecil Sites told officers that his son was upset over an incident he was involved in with a female who had obtained warrants for his arrest.)

A short time later, it appeared Sites changed his mind about surrendering. He stated he was going to walk to his truck to put the keys inside, drop the pistol, and allow police to arrest him. Knowing that Sites was armed, had already discharged his firearm twice, and had threatened to shoot officers, Wade explained that Sites should stay in the safe and contained area that he was in and not attempt to walk to his truck. Sites became increasingly agitated and insistent that he needed to walk to his truck to get high. Sites then ignored instructions given by Wade and began walking West towards the parking lot on the backside of the Red Roof Inn. As he broke containment and was observed walking West, the ACPD SWAT Team on scene became concerned that Sites now posed a threat not only to the officers that he was approaching but also civilians staying at the Red Roof Inn and civilian employees working at the Abbott Building. In an attempt to contain Sites and deny him access to heavily populated areas, ACPD SWAT drove down Holiday Drive in a Bearcat and placed themselves between Sites and the parking lot of the Red Roof Inn.

As Sites walked west, the ACPD SWAT Team leader instructed the Bearcat operator to keep the Bearcat in between the approaching Sites and the Red Roof Inn. An intentional tactical decision was made to contain Sites, but not engage with him. Sites, still armed and now holding the gun to his own head, continued to advance on the retreating Bearcat and ACPD SWAT members. A request was made by the SWAT Team Leader to utilize

a 40mm launcher as a less lethal option to keep Sites from gaining access to the populated area. (A 40mm launcher fires non-lethal foam sponge rounds and is designed to temporarily disable its target and force compliance.) The request was approved by SWAT Command and just as Sites was about to move past the Bearcat and access an area populated by civilians, an ACPD SWAT team member fired a 40mm round at him. The impact of the 40mm round caused Sites to retreat away from the Red Roof Inn putting him back in front of the Bearcat, but he still refused to peacefully surrender or drop his firearm.

The Albemarle County patrol officer that knew Sites and who had thrown him the water immediately began communicating with Sites. Although the patrol officer saw that Sites still had the pistol in his right hand, he decided to step out from behind the cover of his patrol vehicle, raise his hands in the air to show Sites that he was unarmed, and verbally interact with Sites in order to calm him down. The officer attempted to “show Billy a positive reinforcement of actual human support versus a phone conversation to resolve a better hopeful outcome [*sic*].” For the next 11 minutes, the Albemarle County patrol officer implored Sites to talk to him and drop the weapon. The officer continually stated “Alright brother, I got you,” “we’re working with you brother,” “I’m right here,” “what do you need,” and “I hear you brother.” He asked Sites to drop his weapon 24 times.

Although the Bearcat had been able to create some distance from Sites by backing up as he spoke to the patrol officer, Sites disengaged from the patrol officer and once again started walking towards the Red Roof Inn with the handgun at his side. A second request was made by the SWAT Team Leader to utilize the 40mm launcher as a less lethal option to keep Sites from gaining access to the populated area and the request was approved. Sites was able to make it all the way to the 3 o’clock position parallel to the Bearcat when a second 40mm round was fired at him. Sites then began to move towards the 250 Bypass. The only individuals positioned on the bypass for containment were the ACPD patrol officer that had been speaking with Sites, a second ACPD patrol officer and a Virginia State Trooper.

As members of the SWAT Team repeatedly commanded Sites to drop his weapon, he refused and crossed the northern guardrail making his way onto the Bypass roadway. The SWAT Team ascended the embankment and held their position at the northern guardrail as Sites made it to the grass median of Route 250. The SWAT team had no physical cover excepting the guardrail and were totally exposed. Sites had no officers behind his position to contain him and had he continued across Route 250 and over the far southern guardrail, police were concerned that he would have been in close proximity to a neighborhood, a park, and the Emmett Street area where cars were at a standstill due to the road closure.

In a last attempt to incapacitate Sites before he accessed the densely populated area of Emmet Street during the lunch hour with traffic at a standstill, an ACPD SWAT Team Member fired a third non-lethal 40mm round at him. After being struck the third time, Sites turned to his right, extended his arm and raised his pistol to shoulder level and pointed it directly at the exposed SWAT Officers who were in front of him. (There were

also several civilians down range behind the SWAT members in the area of the Red Roof Inn.) At this time, six ACPD officers simultaneously discharged their firearms, striking Sites seven times. According to the Medical Examiner, most of the wounds were to the upper torso with several to the legs and one to the ankle. The shooting lasted less than three seconds and ceased as soon as Sites hit the ground. (The time was 11:55 A.M. The entire standoff, from the arrival of City Detectives until the County officers discharged their firearms, lasted approximately 1 hour and 52 minutes.)

The SWAT Team approached Sites and observed his pistol on the ground. It was removed from within his reach and SWAT medics immediately began to render aid. Sites was transported to the University of Virginia Medical Center where he later died from his injuries. The scene was secured for the follow up investigation.

In the immediate aftermath of the incident, a citizen that claimed to have observed the shooting made a statement to a newspaper reporter that had arrived on scene. The citizen said that he didn't think Sites had pointed a gun at police. SA Wouters was able to locate and interview this individual. He told SA Wouters that, contrary to what he had said to the newspaper reporter, he had not in fact seen the shooting. He stated that *"I went out to smoke a cigarette on the balcony. I heard an altercation and someone said 'I'm going to be homeless.' I saw the male walking down the road. The male had a gun in one hand and a cell phone in the other hand. I heard the officers ask him to drop the gun. I figured he had mental health issues. I kept hearing law enforcement ask him to drop the gun. I also heard law enforcement tell him they don't want to do this. Before all of that, I heard a round go off when he walked down the wood line. I thought he maybe killed himself. When he came back up, I saw him jump the guard rail and they kept asking him to drop the gun. I saw them shoot a bean bag at him. I was inside my room but had my phone on top of the door recording it, I did not actually see the shooting with my own eyes, only on the video. I feel they gave him plenty of opportunity to drop the gun and help the situation."*

Legal Standard

In a 2018 *per curiam* opinion, the United States Supreme Court summarized the controlling legal standard as to when an officer may use deadly force:

[W]hether an officer has used excessive force "requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect possess an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight. The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation."

Kisela v. Hughes, 584 U.S. ____ (2018) (quoting Graham v. Connor, 490 U.S. 386, 396 (1989)).

An officer is entitled to use deadly force to protect himself or others only if the amount of force was not excessive and was reasonable in relation to the perceived threat:

The use of deadly force is an act of necessity and the necessity must be shown to exist or there must be shown such reasonable apprehension of imminent danger, by some overt act, as to amount to the creation of necessity. The right to kill in self-defense begins when the necessity begins and ends when the necessity ends...Imminent danger is defined as an immediate and perceived threat to one's safety or the safety of others.

Couture v. Commonwealth, 51 Va. App. 239 (2008).

Analysis

The investigation made clear that Sites was wanted on three criminal warrants, including felony threatening death or bodily injury to another in writing. When confronted by Charlottesville Detectives attempting to take him into custody, Sites fled, firing his pistol into the air on 2 different occasions. Over the course of almost 2 hours, Sites refused to surrender peacefully or drop his weapon and threatened to shoot officers on multiple occasions. At one point, he had his pistol to his own head. Sites repeatedly advanced on officers while armed and tried to make his way to areas populated by citizens, potentially putting them at risk. He did not comply with lawful commands despite 3 separate deployments of less than lethal force. At the conclusion of this event, Sites deliberately extended his arm and pointed his pistol directly at exposed and unprotected SWAT officers. One of the officers that discharged his weapon said that before firing, he was looking directly at the barrel of Site's pistol which was aimed at him. Then, and only then, did 6 separate officers discharge their weapons. It is important to note that all 6 discharged their weapons at almost exactly the same time. This uniform response is direct evidence that all 6 perceived in a split second an imminent threat to their safety and the safety of others. Their statements made clear that in circumstances that were tense, uncertain, and rapidly evolving, they each feared for their own lives, the lives of their fellow officers, and the lives of innocent civilians. All stated that immediately prior to Sites pointing his weapon at them, he was actively and intentionally ignoring commands from multiple officers from multiple agencies to show his hands, drop his weapon, and surrender peacefully. All 6 officers stopped firing immediately upon the cessation of the perceived threat, 3 seconds from start to finish. Once Sites was on the ground and the perceived threat had abated, officers immediately approached him and rendered aid.

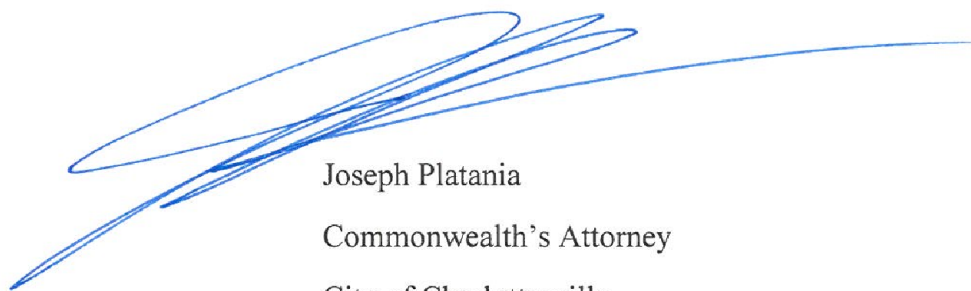
Efforts were made to personally meet with Cecil Sites, the father of Billy Sites. He was given the opportunity to view body camera footage of the incident and to hear a summary of this report before it was publicly circulated. Mr. Sites respectfully declined to meet and asked that video

footage and other related evidence surrounding this event not be released. Out of respect to Mr. Cecil Sites and his family, I have made the decision to honor his request and there will be no public release of information or evidence beyond this report.

Conclusion

After a thorough review of all available evidence in this case, it is my conclusion that the 6 Albemarle County officers involved each justifiably used deadly force to protect themselves, their colleagues, and countless other members of the public. The amount of force used was not excessive and was objectively reasonable in relation to the perceived threat.

My investigation of, and involvement in, this matter is therefore concluded.

A handwritten signature in blue ink, consisting of several overlapping, fluid strokes that form a stylized representation of the name Joseph Platania.

Joseph Platania

Commonwealth's Attorney

City of Charlottesville